

**ENTERED**

April 05, 2023

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION**

T&W HOLDING CO., LLC, *et al.*,

Plaintiffs.

V.

CITY OF KEMAH, TEXAS,

Defendant.

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CIVIL ACTION NO. 3:22-cv-00007

**ORDER**

Today at 2:28 p.m., Terri Gale sent the email attached as Exhibit A to my case manager, Ruben Castro. Mr. Castro immediately forwarded the email to me. The email had three attachments: (1) a letter written by Ms. Gale; (2) a City Council Agenda and documentation packet from 01/04/2023; and (3) a copy of the Carl Joiner deposition. Those documents are attached as Exhibits B, C, and D, respectively.

The submissions from Ms. Gale unquestionably constitute impermissible ex parte communications. Model Code of Judicial Conduct 2.9(B) provides that “[i]f a judge inadvertently receives an unauthorized ex parte communication bearing upon the substance of a matter, the judge shall make provision promptly to notify the parties of the substance of the communication and provide the parties with an opportunity to respond.” Accordingly, I will allow the parties an opportunity to respond to Ms. Gale’s submissions, if they so desire, by Friday, April 7, 2023. The parties are not required to file anything and, if they do, are limited to two pages. To be clear, I have not read Ms. Gale’s submissions, and I do not intend to do so. The submissions will not be considered as part of the Motion to Dismiss record.

SIGNED this 5th day of April 2023.

  
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ANDREW M. EDISON  
UNITED STATES MAGISTRATE JUDGE